

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOHN J. VOSS, JR.,

Plaintiff,

v.

08-CV-133

UNITED STATES OF AMERICA, ALBANY VA
MEDICAL CENTER, DEPARTMENT OF
VETERAN AFFAIRS,

Defendant.

THOMAS J. McAVOY
Senior United States District Judge

DECISION and ORDER

Plaintiff John Voss, Jr., filed a civil rights complaint against the Albany VA Medical Center, Department of Veteran Affairs, pursuant to 42 U.S.C. § 1983. The Court referred this matter to the Hon. Randolph F. Treece, United States Magistrate Judge. Upon review of the Complaint, the Magistrate Judge recommended that the Court issue an order directing Plaintiff to file an amended complaint if he wishes to avoid dismissal of this action. Report-Recommendation (April 2, 2008). Further, Magistrate Judge Treece recommended that, in this amended complaint, the Court order Plaintiff to comply with Fed. R. Civ. P. Rules 8 and 10 and allege claims of misconduct or wrongdoing against Defendants that he has a legal right to pursue and over which this Court has jurisdiction.

Magistrate Judge Treece concluded that Plaintiff failed to satisfy the basic pleading requirements of: (1) "a short and plain statement of the claim showing that

the pleader is entitled to relief" Fed. R. Civ. P. 8(a)(2); and (2) separate, numbered paragraphs. Fed. R. Civ. P. 10. Petitioner filed objections to the Report-Recommendation.

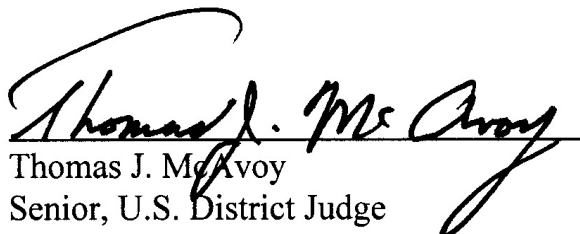
When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Having reviewed the record *de novo* and having considered the issues raised in Plaintiff's objections, the Court adopts the recommendation of Magistrate Judge Treece for the reasons stated therein.

For the foregoing reasons, the Court **ORDERS** Plaintiff to file an amended complaint consistent with this Decision and the Report-Recommendation or face dismissal of this action. Further, the papers received by the Court on June 20, 2008 are being returned and may be resubmitted if a proper amended complaint is filed.

IT IS SO ORDERED.

Dated: August 13, 2008


Thomas J. McAvoy
Senior, U.S. District Judge